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PTO/88/26 (09-04)

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**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)  
AMBI:068US

In re Application of: Gary J. Latham et al.

Application No.: 10786,875

Filed: February 25, 2004

For: IMPROVED NUCLEASE INHIBITOR COCKTAIL

The owner, AMBI-ON, INC., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,684,379, as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 37,259



Signature

February 16, 2006

Date

Mark B. Wilson

Typed or printed name

(512) 536-3035

Telephone Number

- ☒ Charge Terminal disclaimer fee under 37 CFR 1.30(d) to Deposit Acct. No. 60-1212.

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\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/88/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

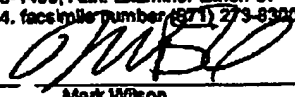
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FEB 16 2006

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Title: IMPROVED NUCLEASE INHIBITOR COCKTAIL  
Appl. No.: 10/786,875  
Applicant: Latham *et al.*  
Filed: February 25, 2004  
Art Unit: 1634  
Examiner: Whisenant, Ethan C  
Docket No.: AMBI:089US

CERTIFICATE OF FACSIMILE TRANSMISSION 37 C.F.R. § 1.8	
I hereby certify that this correspondence is being transmitted to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA, 22313-1450, Attn: Examiner Ethan C. Whisenant, GAU 1634, facsimile number (703) 273-8320 on the date below:	
February 16, 2006 Date	 Mark Wilson

**RESPONSE TO THE OFFICE ACTION MAILED NOVEMBER 16, 2006****MAIL STOP AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants submit this response to the Office Action mailed on November 16, 2005, in the above case.

Amendments to the Claims are reflected in the listing of claims which begins on page 2.

Remarks/Arguments begin on page 18.

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alternative format. Additionally, newly added independent claims 109 and 110 incorporate the subject matter of claims 28, 29, and 34, respectively.

Because claims 13, 21, 23, 28-29, 34, and 45 are not rejected by the above cited references, the present anticipation and obviousness rejections under 35 U.S.C. §§ 102(b) and 103(a) are rendered moot. Therefore, Applicants request that these rejections be withdrawn.

Applicants note that the amendments to the claims should not be construed as an acquiescence to the rejections. Applicants reserve the right to file a continuing application directed to additional subject matter in the future.

**D. The Double Patenting Rejections Are Overcome**

There are four separate obviousness-type double patenting rejections. Applicants are filing the appropriate terminal disclaimers along with the present response. In view of this, the obviousness-type double patenting rejections are overcome and should be withdrawn.

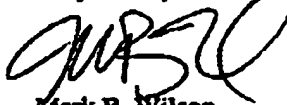
**E. Conclusion**

Applicant believes that this document is a complete response to the Office Action mailed November 16, 2005. The present claims are in a condition for allowance and such favorable action is requested.

The Commissioner is hereby authorized to deduct any fees required by 37 C.F.R. §§ 1.116 to 1.21 as a result of the filing of this paper, including the terminal disclaimer fees required by 37 C.F.R. § 1.20(d), from Fulbright & Jaworski Deposit Account No. 50-1212/AMBI:089US.

The Examiner is requested to contact Applicant's representative at (512) 536-3035 with any questions or comments concerning this application.

Respectfully submitted,



Mark B. Wilson  
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Attorney for Applicant

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Date: February 16, 2006

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